

Audit scope

Criminal courts backlog

AUDITOR GENERAL 

Prepared by Audit Scotland

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Background

The Covid-19 pandemic and associated measures introduced to manage the risks, such as public health lockdowns and physical distancing restrictions, have exacerbated the strain on the criminal justice system in Scotland. This has also significantly added to the number of outstanding cases waiting to go through the court system.

In response, the Scottish Government (SG) put in place the 'Recover, Renew and Transform' (RRT) programme of work. This aims to enable the justice system to both operate again at pre Covid-19 levels and prepare for future transformation. The RRT programme includes plans to increase criminal court capacity and make greater use of digital technology within the criminal courts setting.

The Scottish Courts and Tribunals Service (SCTS) now estimates that the criminal courts backlog will return to pre-pandemic levels by March 2024 for summary sheriff cases. It estimates that high court cases will be brought back down to pre-pandemic levels by March 2025 and sheriff solemn cases by March 2026.

Why is this audit important?

The criminal courts backlog has a significant human impact on victims, witnesses and the accused. Delays to proceedings can cause distress for people engaging with the justice system and those affected by crime and impact the effectiveness of proceedings.

The response to the criminal courts backlog is unfolding and it is crucial that the SG and its partners get it right both for service users and the wider justice system. The audit, while focused on the criminal courts backlog, will highlight where future related risks and challenges exist within the criminal justice sector, providing a platform for future audit work.

What will the audit look at?

The overall aim of the audit is to assess the scale of delays in the criminal court system as a result of the backlog caused by Covid-19 and what impacts they are having on victims, witnesses and the accused.

The audit will focus on the following areas:

- The patterns in court business and waiting times pre Covid-19 and the

subsequent impact of the pandemic since March 2020.

- The plans that the SG and other partners in the criminal justice system have put in place to manage the current backlog and whether these include sustainable changes that will help support system transformation.
- How long SCTS projects that it will take for the backlog to return to pre-pandemic levels and the risks, challenges, and threats to future recovery and sustainable performance.

How will we carry out this audit?

We will use a range of evidence to develop judgements and recommendations. We will gather information using methods including:

- analysing data collected by SG and SCTS
- reviewing documentary evidence including key documentation associated with the RRT programme
- interviews with a range of stakeholders including the SG, SCTS, Crown Office and Procurator Fiscal Service, and the legal profession.
- engaging with advocacy and support groups to understand the impact of delays on those interacting with the court system.

What do we want to happen as a result?

The audit will provide an independent assessment of the progress that has been achieved in reducing the criminal courts backlog in Scotland.

It aims to provide assurance to the Scottish Parliament, the public and other stakeholders, enabling greater transparency and scrutiny of how efficiently the criminal courts backlog is being managed, and how effectively measures taken during the Covid-19 pandemic are helping to support transformational change.

Timetable

We plan to publish the report on behalf of the Auditor General in May 2023.

Contact

If you have any questions, please get in touch with Sarah Pollock, Audit Manager, at spollock@audit-scotland.gov.uk

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